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EXAMINER	
ELFERVIG, TAYLOR A	

ART UNIT	PAPER NUMBER
2445	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,483	MEENTZEN ET AL.	
	Examiner	Art Unit	
	TAYLOR ELFERVIG	2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/08/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

1. This communication is considered fully responsive to Applicant's amendment filed on 08.24.2009.

Response to Arguments

2. Applicant's arguments with respect to **claims 1-14** have been considered but are moot in view of the new ground(s) of rejection.

a. Applicant argues: *Neither Hass nor Drysdale* teaches monitoring that takes reception into consideration.

i. Examiner responds: *Hass* states, "Client agent on recipient client preferably notifies server agent of the successful receipt of the data transmission" (col. 6 ll. 5-7). Also *Hass* states, "The present invention is of a system and method for tracking data transmission, and for reporting the receipt of the data transmission and the level and/or type of interaction between the intended recipient user and the data transmission. If the ... recipient ... does not receive the data transmission within a predetermined time ...the sender user ... is notified if such a period of time has elapsed" (col. 1 ll. 66-67, col. 2 ll. 1-12).

b. Applicant argues: *Neither Hass nor Drysdale* teaches a task involving successful delivery of a particular packet.

ii. Examiner responds: see argument 2(a)(i).

c. Applicant argues: *Neither Hass nor Drysdale* teaches the creating or checking a "reception control message" indicating successful reception of a data packet with a follow on "monitoring message" with data indicating successful reception.

iii. Examiner responds: Examiner introduces a new reference *Choi*. *Choi* teaches embedding a unique code within a message so when a message is received the reception message with the code is sent back to a mail center and confirmation message is sent to the sender.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claims 1-14** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 1, it claims a method of monitoring data exchange between application systems. The method is not tied to a particular machine or apparatus nor does it transforms a particular article into a different state or thing. This claim is software per se and claimed subject matter is non-statutory subject matter.

As to claim 10, similar rejection as to claim 1.

As to claim 13, similar rejection as to claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 1-7 and 10-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application No. 2001-357267 to *Minoru ("Minoru")* (Machine Translated) in view of U.S. Patent No. 6,629,131 B1 to *Choi ("Choi")*.

As to claim 1, *Minoru* discloses a method of monitoring data exchange between application systems comprising the steps:

transmitting a despatch control message from a first application system to a separate monitoring unit after despatch of a data packet from the first application system to a second application system (Drawing 1, Drawing 3; pg. 4 ll. 20-25 (1st process of transmitting ... said 1st server or the 2nd server receives the server of the other party ... 2nd process of transmitting to said 3rd server ...)),

Choi discloses what *Minoru* does not expressly disclose. However, Minoru teaches that 3rd server can detect communications between a 1st and 2nd server have not occurred within a predetermined time (pg. 4 ll. 3-4).

Choi discloses:

creating a reception control message (col. 3 ll. 2 "send information") from the second application system (Receiver's Mail Server) after successful reception of the data packet by the second application system (Receiver's Mail Server) (Fig. 3, col. 2 59-67, col. 3 ll. 1-11), and

outputting a monitoring message from the monitoring unit containing information as to whether the data packet was received by the second application system (Receiver's Mail Server) successfully and within a predetermined transaction time (Fig. 3, Reception Confirmation; col. 3 ll. 1-11, 49-64; "success of business depends on whether or not the receiver reads within a certain time limit").

Minoru and Choi are analogous arts because they are from the same field of endeavor with respect to determining if a message was received.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate sending confirmation of a received message as discussed in *Choi* with a method of monitoring data exchange between application systems as discussed in *Minoru*. The suggestion/motivation would have been a need to determine when a message is received (*Choi*, col. 3 ll. 1-11).

As to claim 2, *Choi* discloses characterized in that the first and second application systems are not directly connected together but are indirectly connected together in particular by way of at least one further application system

and/or transmission system (Fig. 3, Sender and Receiver connected via a Mail Server). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 3, *Choi* discloses characterized in that the application and transmission systems connecting the first and second application systems also create reception and/or despatch control messages after successful reception and despatch respectively of the data packet and communicate same in particular to the monitoring unit (Fig. 3, Reception Confirmation). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 4, *Choi* discloses characterized in that the first and second application systems are different application systems and in particular use different data protocols (col. 2 ll. 8-21; "if a mail client application used by the receiver for reading mail does not support a hypertext markup language (HTML)"). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 5, *Choi* discloses characterized in that rules concerning the transmission of data packets are predetermined in the monitoring unit, in which rules it is specified which points are to be monitored by the monitoring unit on the basis of the despatch and reception control messages (Fig. 3, CGI Executive

Program; Abstract, col. 1 ll. 41-53). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 6, *Choi* discloses characterized in that measures to be taken for different kinds of data packets in the case of a negative result of points to be monitored, maximum transaction times, transmission paths and/or application systems from which control messages are expected are specified in the rules (col. 2 ll. 8-21; "if a mail client application used by the receiver for reading mail does not support a hypertext markup language (HTML)"). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 7, *Choi* discloses characterized in that the reception control messages are transmitted from the second application system to the monitoring unit (Fig. 3, Reception Confirmation Code Registration Mail Guide Note; (col. 3 ll. 1-4, "unique code of the mail to a mail control system B in a mail center")). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 10, similar rejection as to claim 1.

As to claim 11, *Minoru* discloses comprising:

a receiving unit for receiving a despatch control message from a first application system after despatch of a data packet from the first application

system to a second application system (Drawing 1, Drawing 3; pg. 4 ll. 20-25 (1st process of transmitting ... said 1st server or the 2nd server receives the server of the other party ... 2nd process of transmitting to said 3rd server ...)),

Choi discloses what *Minoru* does not expressly disclose.

Choi discloses:

a checking unit for checking a reception control message created by the second application system after successful reception of the data packet (col. 3 ll. 1-4, "unique code of the mail to a mail control system B in a mail center"),

a processing unit for checking whether the data packet was received by the second application system successfully and within a predetermined transaction time, on the basis of the despatch control message and reception control message and for creating a corresponding monitoring message (col. 2 ll. 59-67, col. 3 ll. 1-11, 49-64; "success of business depends on whether or not the receiver reads within a certain time limit"; CGI Executive Program (Reception Confirmation Code, Registration Mail Guide Note), Reception Confirmation Code (Registration Mail Guide Note) to Mail Control System B), and

an output unit for outputting the monitoring message (Fig. 3, Reception Confirmation Signal, col. 3 ll. 1-11).

The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 12, *Choi* discloses further comprising a storage unit for storing predetermined rules which relate to the transmission of data packets and in which it is defined which points are to be monitored by the monitoring unit on the basis of the despatch and reception control messages (Fig. 3, CGI Executive Program; Abstract, col. 1 ll. 41-53). The obviousness rejection and suggestion/motivation are the same as in claim 1.

As to claim 13, *Minoru* discloses a method of monitoring the data exchange between application systems comprising the steps:

receiving a despatch control message from a first application system after despatch of a data packet from the first application system to a second application system (Drawing 1, Drawing 3; pg. 4 ll. 20-25 (1st process of transmitting ... said 1st server or the 2nd server receives the server of the other party ... 2nd process of transmitting to said 3rd server ...)),

Choi discloses what *Minoru* does not expressly disclose. However, Minoru teaches that 3rd server can detect communications between a 1st and 2nd server have not occurred within a predetermined time (pg. 4 ll. 3-4).

Choi discloses:

checking a reception control message created by the second application system after successful reception of the data packet (col. 3 ll. 1-4, "unique code of the mail to a mail control system B in a mail center"),

checking whether the data packet was received by the second application system successfully and within a predetermined transaction time on the basis of the despatch control message and the reception control message (col. 2 ll. 59-67, col. 3 ll. 1-11, 49-64; "success of business depends on whether or not the receiver reads within a certain time limit"; CGI Executive Program (Reception Confirmation Code, Registration Mail Guide Note), Reception Confirmation Code (Registration Mail Guide Note) to Mail Control System B),

creating a corresponding monitoring message (Fig. 3, Reception Confirmation Signal, col. 3 ll. 1-11), and

outputting the monitoring message (Fig. 3, Reception Confirmation Signal, col. 3 ll. 1-11).

The obviousness rejection and suggestion/motivation are the same as in claim 1.

7. **Claims 8, 9 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application No. 2001-357267 to *Minoru ("Minoru")* (Machine Translated) in view of U.S. Patent No. 6,629,131 B1 to *Choi ("Choi")* in further view of U.S. Patent No. 6,725,255 B1 to *Hass et al. ("Hass")*.

As to claim 8, *Minoru and Choi* disclose a method of monitoring data exchange between application systems as discussed in claim 1 and claim 7.

Hass discloses what *Minoru and Choi* do not expressly disclose.

Hass discloses:

characterized in that the reception control messages are stored in the second application system and the monitoring unit periodically monitors the stored reception control messages (col. 5 ll. 14-38, col. 6 ll. 23-29).

Minoru, Choi and Hass are analogous arts because they are from the same field of endeavor with respect to determining if a message was received.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate storing messages as discussed in *Hass* with sending confirmation of a received message as discussed in *Choi* with a method of monitoring data exchange between application systems as discussed in *Minoru*. The suggestion/motivation would have been a need to notify the server of the type of interaction of the receiver (*Hass*, col. 6 ll. 23-29).

As to claim 9, *Hass* discloses characterized in that the monitoring message is transmitted to the first application system, a service provider connected to the first application system or a user of the first application system (col. 5 ll. 50-65). The obviousness rejection and suggestion/motivation are the same as in claim 8.

As to claim 14, *Hass* discloses when the computer program is executed on a computer (col. 13 ll. 15-45). The obviousness rejection and suggestion/motivation are the same as in claim 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAYLOR ELFERVIG whose telephone number is (571) 270-5687. The examiner can normally be reached on Monday - Thursday, 9:00 am - 4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. E./
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